

REMARKS

Applicant respectfully acknowledges receipt of the Office Action mailed December 20, 2004, the period for response having been extended to June 20, 2005.

In the Office Action, the Examiner (1) rejected claims 48-50 under 35 U.S.C. §102(e) as being anticipated by *Cordery et al.* (U.S. Patent No. 6,613,571); (2) rejected claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over *Cordery* in view of *Bennett* (U.S. Patent No. 5,023,595) and *Connor* (U.S. Patent No. 4,363,438); (3) rejected claim 51 under 35 U.S.C. §103(a) as being unpatentable over *Cordery* in view of *Bennett*; (4) allowed claims 19-47; and (5) objected to claim 52 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By this Amendment, Applicant has amended claims 10, 18, 19, 25, 26, 33, 39, 40, and 48, and has cancelled claim 52 without prejudice or disclaimer. Claims 1-51 are now pending. Of these claims, claims 1, 2, 19, 26, 33, 39, 40, and 48 are independent.

Applicant gratefully acknowledges the Examiner's allowance of claims 19-47.

Applicant also acknowledges the Examiner's indication of allowable subject matter in claim 52. Consequently, Applicant has amended independent claim 48 to include the feature of allowable claim 52, and has cancelled now superfluous claim 52. Accordingly, independent claim 48 is in condition for allowance. In addition, claims 49-51 are also in condition for allowance at least due to their dependence from allowable claim 48.

Claims 48-50 stand rejected under 35 U.S.C. §102(e) as being anticipated by *Cordery et al.* Applicant respectfully traverses the rejection.

As noted above, Applicant has amended claim 48 to include the feature of allowable claim 52, which the Examiner admitted is not discussed by *Cordery et al.* Consequently claim 48 is in condition for allowance. In addition, claims 49 and 50 are also in condition for allowance at least due to their dependence from claim 48. The claim rejections set forth under 35 U.S.C. §102(e) are now moot and should be withdrawn.

Applicant respectfully traverses the §103(a) rejection of claims 1-18, and submits that claims 1-18 are patentably distinguishable over *Cordery*, *Bennett*, *Connor*, and the other art of record, alone or in combination, at least for the reasons described below.

Applicant notes that in order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), each of three requirements must be met. First, the reference or references, taken alone or combined, must teach or suggest each and every element recited in the claims. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Third, a reasonable expectation of success must exist. Moreover, each of the three requirements must "be found in the prior art, and not be based on applicant's disclosure." See M.P.E.P. §2143, 8th ed., February 2003.

With respect to independent claims 1 and 2, the cited prior art fails to disclose or suggest each element of the invention. In particular, the applied references, taken

alone or in combination, at least fail to teach or suggest “an indicator positioned outside the enclosure, coupled to the detector, and generating an indication upon receipt of the detection signal,” combined with the other elements recited in the claims.

Cordery teaches “[C]ontroller 213 will shut down the mailbox and close upon a positive test. The controller 213 will then use communications device 220 to alert a response team.” (*Cordery*, col. 5, ll. 19-21). *Cordery* does not disclose that communications device 220 is positioned outside enclosure 200. To the contrary, as illustrated in Figure 4, communications device 220 is positioned inside enclosure 200. Accordingly, *Cordery* fails to teach or suggest the claimed combination including “an indicator positioned outside the enclosure, coupled to the detector, and generating an indication upon receipt of the detection signal,” as recited in claims 1 and 2.

In order to cure the deficiencies of *Cordery*, the Examiner relies on *Bennett* for its asserted disclosure of “locating indicators outside mailboxes.” (*Office Action*, p. 4, ll. 9-21). Applicant notes, however, that mail arrival signal system of *Bennett* teaches away from indicating the presence of a airborne hazardous material inside the enclosure. In *Bennett*, the switch means 14 is mounted in the interior 55 of the front door 44 of the mailbox 22 and is activated upon opening of door 44. (*Bennett*, col. 4, line 67 -- col. 5, line 2). Switch 14 then completes an electric circuit and energizes transmitter means 20, which provides an alarm signal to a receiver 24 positioned outside the enclosure. (*Id.* at col. 7, ll. 12-51). In *Cordery*, however, communications device 220 generates an indication only upon detection of hazardous material in the air, not when the external door 219 of enclosure 200 is opened. Accordingly, there is no suggestion or motivation, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Were such motivation available, the combination still would not result in the claimed invention. The indicator systems of *Cordery* and *Bennett* are not compatible with each other. If *Cordery*'s communications device 220 was modified to implement *Bennett*'s switch 14, transmitter means 20, and receiver means 24, every time the door 219 of enclosure 200 in *Cordery* was opened, an indication signal would be generated, indicating the presence of incoming mail rather than an airborne hazardous material, thus, defeating the purpose of *Cordery*'s biological contamination detection system. Consequently, Applicant respectfully submits that the rejection of claims 1 and 2 under 35 U.S.C. §103(a) is unsupportable and should be withdrawn.

Applicant respectfully submits that independent claims 1, 2, 19, 26, 33, 39, 40, and 48 are allowable over the cited art, and are in condition for allowance. In addition, claims 3-18, 20-25, 27-32, 34-38, 41-47, and 49-51 are in condition for allowance at least due to their dependence from claims 2, 19, 26, 33, 40, and 48 respectively.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

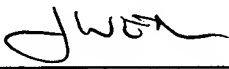
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON,
FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 20, 2005

By: 
James W. Edmondson
Reg. No. 33,871